Board of Governors adopts $3.9 million budget for 2020-2021

By David A. Blaner

The Allegheny County Bar Association Board of Governors adopted a $3.9 million spending plan for the 2020-2021 fiscal year during its May 19, 2020, Board meeting. The budget is balanced and does not require a membership dues increase.

Our annual operating budget has been impacted by the effects of the COVID-19 pandemic. The budget does not include a dues increase; however, a 5% increase in non-sheriff-sale advertising rates is included. This rate increase, along with spending cuts, offset a $109,000 decrease in revenue from sheriff-sale advertising, a contractual decrease in $12,500 of USI royalty revenue, and the anticipated loss of 164 members. The budget requires the use of $25,500 in fund balance to subsidize the second year of the CLE expansion program, which began this year to replace the loss of $108,000 from PBI when the agreement ended in 2019.

Total operating expenses have decreased 4.1%. The salary and wage expense budget includes 3% for the mandatory 401(k) contribution and 3% for merit salary increases. There is nothing budgeted for staff incentive bonuses. One voluntary staff resignation in March created an open position in the Publications Department that will not be filled at this time. No other personnel changes are planned. Travel budgets for volunteers and staff have been reduced by $23,000 and deferred compensation expenses for management personnel have been removed from the budget.

Rent expense under the new Koppers Lease Agreement, effective Jan. 1, 2021, will lower expenses by $126,000. This stems from the elimination of the third-floor space and an 18-month rent credit provided under the agreement. The rent credit will expire in July 2022, and rent expense will increase by $70,000.

Proposed 2020-2021 Budget Revenue (3.9 M)

- Personnel, Salaries, 401K, Insurance, Taxes: $215,000
- Other non-dues revenue includes: Continuing Legal Education, $157,000 in gross revenues; royalty revenue, $215,000; administrative fees from insurance programs and rental income from property added $215,000; administrative fees from sections, $43,870 in gross revenue; the Lawyer Referral Service produces $157,000 in gross revenues; royalty fees from insurance programs and rental income from property adds

Proposed 2020-2021 Budget Expenses (3.9 M)

- Personnel, Salaries, 401K, Insurance, Taxes: 56%
- Programs & Projects: 33%
- Publications: 4%
**Gender Bias Duty Officers**

If you (attorneys or law students) have observed or experienced any form of gender bias in your role as an attorney or law student in PA, you may contact any one of the following members of the Gender Bias Subcommittee of the Women in the Law Division on a daily basis. The duty officers will keep your report confidential and will discuss with you actions available through the subcommittee.

- Kimberly Brown ........................................ 412-396-7895
cabrown@jonesday.com
- Jeanine DeBor ........................................ 412-396-5315
deborah@deborlegal.com
- Rhoda Neft ........................................ 412-406-5434
rhoda.neft@gmail.com

**Ethics Hotline**

The ACBA Professional Ethics Committee “Ethics Hotline” makes available Compass Members to answer ethical questions by telephone on a daily basis.

- July ........................................ 412-396-6289
- August ........................................ 412-456-8101
- Nick S. Fisfis ........................................ 412-747-8443
nick.fisfis@americanmitre.com
- Bruce Herschlag ........................................ 412-442-4262
bruce@selfishlaw.com
- Bob Bernstein ........................................ 412-916-4874
rjake@carolekatz.com
- Gregory Monaco ........................................ 412-396-5215
gregory.monaco@americanmitre.com
- Nick S. Fisfis ........................................ 412-396-6289
nick.fisfis@americanmitre.com
- Christine Long ........................................ 412-766-8660
c Christine.long@americanmitre.com
- William J. McKim ........................................ 412-736-2672
william.mckim@americanmitre.com

**The full text and headnotes for the cases below appear in the online, searchable PJ Opinions located at www.ACBA.org.**

**Commonwealth of Pennsylvania v. Anjohnto Willet, Raungo, J.**

Criminal Appeal—PCRA—Turner/Finley letter—pro se response

When defendant responded pro se to counsel’s Turner/Finley letter, the trial court agrees it should have permitted defendant to amend his petition.

**Commonwealth of Pennsylvania v. James S. Fay, Jr.**

Possession/PWID—Suppression—Mere Encounter

Defendant asserts police had mere encounter with him when they stopped him on the street, since he had no obligation to respond, the warrantless stop was unconstitutional.

**Commonwealth of Pennsylvania v. Jason Woo (Jason) Baik,**

Bicket, J.

Criminal Appeal—Commonwealth Appeal—Sufficiency—Sex Offenses—Motion for Judgment of Acquittal—Intoxication

Even though the complainant was intoxicated at the time of intercourse, the Commonwealth failed to establish that she was unable to make a reasonable judgment as to whether to have sex. Warning: This opinion contains sexually explicit material. This opinion was selected for publication by the Criminal Litigation Section Editors and the ACBA Publications Committee has approved it for publication with this attached warning.

*This option was redacted by the ACBA staff. It is the express policy of the Pittsburgh Legal Journal not to publish the names of juveniles in cases involving sexual or physical abuse and names of all sexual assault victims or relatives whose names could be used to identify such victims.

**Pre-order your ACBA Legal Directory 2020-21, get free shipping**

The ACBA Legal Directory is a staple of many attorneys’ reference materials, often sitting right on top of a desk covered with court filings and legal pads.

There are two reasons why now is the perfect time to pre-order the 2020-21 directory:

- Pre-orders placed by mid-July receive free shipping (a savings of $45 per directory).
- The spiral-bound directory costs $22 plus tax – and it includes a $20 voucher toward any ACBA CLE class almost “free.”

The directory is sponsored by AmeriServ Trust and Financial Services

**Allegheny County Bar Association 2020-21 Legal Directory**

Company and will be available in August. It contains the names, addresses, phone/fax numbers and email addresses of all ACBA members.

To order online and pay by credit card, go to the Product Store on ACBA’s website: ACBA.org/ProductStore. Or call Barbara Brumbaugh, ACBA Membership Coordinator, at 412-402-6612.

To pay by check, go to https://bit.ly/3FvKr5H to get an order form. Mailing instructions are included on the form.

The ACBA Legal Directory is also online at ACBA.org, where it can be electronically searched.

Both the printed and online versions of the Legal Directory include the popular Member-to-Member Referral Guide (M2M), which lists ACBA attorneys by fields-of-practice – and by languages spoken, if applicable.

The guide makes up the first section of the annual Legal Directory.

**Market Your Practice Online with the ACBA**

Need new clients? We’ll help bring them to you.

For information about how the Lawyer Referral Service can help more clients find YOU, please contact Whitney Hughes at 412-402-6703 or whughes@acba.org. For a closer look at this unique Pittsburgh legal service, please visit www.GetAPittsburghLawyer.com.

**From Conflict to Resolution.**

Carole Katz helps businesses and people resolve conflicts in less time, through processes that give parties and their lawyers more control over the outcome.

**Results**

**Andrew J. Cornelius, P.C. | Intellectual Property Law**

305 Mt. Lebanon Boulevard, Suite 205
Pittsburgh, Pennsylvania 15234
412.571.9552 office
acornelius@ajciplaw.com
ACBA election 2020 results: New officers adapt agendas to reflect realities of COVID-19, racial protests

By Zandy Dudiak

When Joseph Williams interviewed with ACBA’s nominating committee in March, he thought he had a sense of what he might prioritize as president-elect. Williams, a partner at Pollock Begg, decided to seek the Bar Association’s second-highest position as a way to pay forward everything the ACBA has given him, from mentoring as he came out of law school to networking as he grew his practice. He was looking forward to working with the ACBA’s new president, Elizabeth Hughes, who had served with him on the Board of Governors, Bench-Bar Committee and Family Law Section, among other committees.

“The opportunity to lead back-to-back with her was one reason I applied for the position,” said Williams, who ran unopposed for the seat.

Just after his nomination interview took place on March 18, COVID-19 shut down the legal system. The ACBA elections via electronic ballot began on May 12, just three days before Allegheny County moved to the “yellow” phase of reopening. The elections ended on May 28, just three days after George Floyd was killed by a police officer’s knee to his neck and protests erupted nationwide.

During those few months, the world changed. And so did Williams’ planned priorities.

ACBA Election Notes:

• Elected to the ACBA Board of Governors were A. Patricia Diulus-Myers, Amy Dolan Strano and Tony J. Thompson. Kerri Lee Cappella and Danielle Dietrich were re-elected to the Board of Governors. Joseph R. Williams was elected as President-Elect and Daniel E. Fitzsimmons was elected as Treasurer.

• Daniel E. Fitzsimmons will become ACBA treasurer and will resign from his seat on the ACBA Board of Governors. The Board of Governors will discuss filling Fitzsimmons’ vacant board seat at its July 7 meeting.

• Julie Vanneman won the WLD chair-elect position, but also won a seat on the WLD Council, which she declined. The WLD Council voted to fill the open, three-year seat with the candidate who received the next highest number of votes, Sarah J. Simkin.

• Asra Hashmi ran unopposed for Young Lawyers Division chair-elect. She was unavailable for comment.

• Margaret Prescott won the position of YLD treasurer.

“Priorities have changed. And so did Williams’ priorities,” said Williams, who ran unopposed for the seat.

“We want to make our bar as inclusive as can be,” he said. “They’ve tackled a lot of the challenges for minority attorneys.” Williams said he plans to work closely with the Homer S. Brown (HSBD), Women in Law (WLD) and Young Lawyers (YLD) divisions. Given the issues that have surfaced after Floyd’s death, Williams expects the HSBD to be a leading force in the organization. He noted that the ACBA has started implicit bias training and the organization will focus on people receiving fair and equal treatment in the legal system.

“We want to make our bar as inclusive as can be,” he said. “They’ve tackled a lot of the challenges for minority attorneys.”

The HSBD will be headed in the coming year by Regina Wilson, an attorney with K&L Gates, who moved from chair-elect to Division chair, and chair-elect Morgan Moody, a staff attorney at KidsVoice, who ran unopposed.

“I know that my experiences (in family law) will inform the work that I do as chair-elect of the Homer S. Brown Division, especially when it comes to listening to our community and supporting the local African American community as a whole,” Moody said.

Wilson said the murder of George Floyd and recent marches and protests reinforce HSBD’s mission to provide support to members, increase member and community involvement and engagement, and provide educational programming and volunteering opportunities. The HSBD is also going ahead with plans for the annual Martin Luther King, Jr Prayer Breakfast, despite the looming threat of COVID-19 returning.

The WLD, meanwhile, will be looking at adapting some of its valuable programs and exploring new options in the COVID-19 era, said Julie Vanneman, a shareholder with Dentons Cohen & Grigsby who won the WLD chair-elect seat. She will serve with incoming Chair Mary McKinney Flaherty.

“Most of the issues that have surfaced in recent months are not lost now, Vanneman said. She brings a unique

Continued on page 6
Extending the legacy of George Floyd

By Mark A. Nordenberg and Frederick W. Thieman

Americans continue to be haunted by images of the unfeeling murder of a Black man by White police officers in Minneapolis. Those images are shocking, but we know, in this age of cell phones and body cams, that this was not an isolated occurrence. To the name of George Floyd, countless other victims of color could be added. It is no surprise then that anger has erupted across the nation as people of all colors protest the injustices suffered, especially by African Americans, and demand the policing reforms that clearly are needed.

However, the grievances that have unleashed this wave of protests are more pervasive, including inequities in education, employment and, as the pandemic has shown, in healthcare. Within the criminal justice system itself, they include policies and practices that have led to the disproportionate arrest and confinement of people of color, depriving them of years of freedom and resulting in our country being labelled “the incarceration nation.” These, too, are among the many wrongs that must be addressed.

To be clear, the criminal justice system plays a critical role by preserving public safety, a fundamental function of every government. However, that mission must be advanced without sacrificing the individual rights that play a major part in defining what it means to be American, and it must be advanced in ways that are seen to be fair. Unfortunately, the citizen protests taking place across the country today reflect a widely held belief that the criminal justice system is both overused and unjust.

While the United States has just 5% of the world’s population, it houses 25% of the world’s prisoners. Nearly two dozen states have as many individuals in prison as in college, a tragic toll in productive lives lost, but there is more. In Allegheny County, nearly 42% of every property tax dollar goes to support the criminal justice system, and consider these sobering local statistics:

• Although built for a daily population of 1,450 inmates, over the past decades, our county jail has consistently housed more than 2,200 individuals on average, despite dramatic decreases in crime.

• 75% of inmates in the county jail have a substance abuse or mental health issue, and 48% have both.

• 80% of those housed in the county jail have not been found guilty of the charge for which they are being held, and a similar percentage are being held only for a nonviolent offense.

For African Americans, this bad story is much worse:

• In Allegheny County, the booking rate for Black men is 15.4 per 1,000, while the national rate for Black men is 8.4 per 1,000.

• Although making up only 13.4 percent of the population of the county, Black people comprise 49 percent of the county jail’s population.

• African Americans are more likely to receive jail sentences when convicted of low-level offenses.

Eight of ten Americans believe that police should cite, rather than arrest, people accused of non-violent offenses. However, jail bookings exploded during our “war on crime,” and jails accepted anyone sent there, without regard to cost or consequences. Nationally, Black men have been booked into jail at six times the rate of White men and, although African Americans and Hispanics constitute only 31% of our country’s population, they constitute over 50% of those incarcerated.

While the vast majority of police work with integrity under difficult circumstances, these significant statistical variations cannot be explained by suggestions that police are simply arresting those who are committing crimes. The Brookings Institution has reported that Blacks are 3.6 times more likely to be arrested for selling drugs and 2.5 times more likely to be arrested for possession of drugs than are Whites, even though Whites are more likely to sell drugs and equally likely to consume them. The poor and communities of color have been most victimized by years of inequitable enforcement, and when experts calculate the cost of the war on crime in terms of its impact on families and neighborhoods, cost estimates soar to nearly one trillion dollars.

Though much work must yet be done, a multi-year effort to address such inequities is underway in Allegheny County, and some promising signs have begun to emerge. In 2016, County Executive Rich Fitzgerald asked the Institute of Politics (IOP) of the University of Pittsburgh to examine what could be done to make Allegheny County’s current system of justice “fairer and less costly, without compromising public safety.” The IOP convened a panel of criminal justice professionals, including the police, as well as academics and community leaders, who recommended a series of initiatives addressing each aspect of the criminal justice system. This work not only has benefited from the support of the County Executive but also has been embraced by the President Judge of the Court of Common Pleas, the Judge who heads the Criminal Division, the County Manager, court administrators, the Public Defender and others.

To date, there already has been progress in reducing racial disparities in the imposition of bail and in reducing the number of African Americans held in the county jail while awaiting trial. These same leaders championed a more recent effort that significantly reduced the jail population by releasing
Remote online notarization in Pa. during COVID-19

By Jordan Turk

With the onset of social distancing and working remotely, finding solutions to keep your practice running without interruption is critical to your bottom line. In addition to working from home, you now have the added task of figuring out how to get documents notarized when no one wants to (or has been ordered to not) leave their house.

Fortunately, whether it’s verifying interrogatory responses or swearing to an affidavit, many states now allow you to utilize remote online notaries for executing a document.

So, what is remote online notarization?

Instead of having to be physically present before a notary to execute a document, a signer just needs to appear before the notary via webcam or similar audio-visual technology. Bear in mind that this is different from electronic notarization (eNotarization), which has existed in Pennsylvania since 2006. Traditional Notarization involves documents that are notarized in electronic form, but the requirement for the signer to appear physically before a notary still remains. Remote online notarization eliminates this physical requirement.

Until the onset of COVID-19, Pennsylvanians – in March 2020, the Governor approved remote online notarizations for very specific transactions. On April 20, 2020, the Governor signed into law Act 15, which allows for all Pennsylvania notaries public to perform remote online notarizations. This authorization will expire 60 days after the termination or expiration of the Governor’s COVID-19 disaster emergency.

Outside of temporary COVID-19 orders, as of March 1, 2020, 22 states have passed and/or enacted remote online notary laws. Out of those 22 states, 17 of them have fully implemented the procedures, including: Florida, Idaho, Indiana, Kentucky, Michigan, Minnesota, Montana, Nevada, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, Utah, Vermont, and Virginia.

Please note that many states require that you already be a commissioned public notary before you apply to perform remote online notarizations.

An additional five states have enacted remote online notarization laws, but they have not yet taken effect. These include Arizona, Iowa, and Nebraska, whose laws are set to take effect July 1; and Maryland and Washington, whose laws are to take effect Oct. 1, 2020.

Please check with your state’s relevant statute to determine their specific application requirements and procedures regarding remote online notarization.

What does this mean for you?

If you think it will be of value to you and/or your clients, I suggest you have one of your paralegals or legal assistants obtain authorization to perform remote online notarizations. No one knows exactly when work-from-home mandates will be lifted, so it is likely in your best interest to take action sooner rather than later.

Recognition of out-of-state notarizations.

Mostly every state provides in codified form the recognition of out-of-state notarizations, with some possessing more caveats than others.

How does this potentially help you and your practice? Many states say that they recognize out-of-state notarizations if done in the manner and form prescribed by the laws of the place of execution. So if you live in State A, and your client gets a document notarized in State B, chances are highly likely that State A will honor State B’s notarization.

So, for remote online notarization purposes, does this mean I can present Alabama (which does not currently have a law allowing remote online notarizations) with a deed that was done remotely in Montana while the client was in Alabama? There appears to be some gray area in this question.

Given the current state of affairs, I think this is a good testing ground for these remote online notarization statutes, including those allowed under emergency circumstances like Pennsylvania, and I expect most of the remaining states will be adapting to enact the same.

Need a citation to a particular remote online notarization statute or law regarding the recognition of an out-of-state notarization? Feel free to email me at JTurk@lawpay.com.

Given the current state of affairs, I think this is a good testing ground for these remote online notarization statutes, including those allowed under emergency circumstances like Pennsylvania, and I expect most of the remaining states will be adapting to enact the same.

Need a citation to a particular remote online notarization statute or law regarding the recognition of an out-of-state notarization? Feel free to email me at JTurk@lawpay.com.

Given the current state of affairs, I think this is a good testing ground for these remote online notarization statutes, including those allowed under emergency circumstances like Pennsylvania, and I expect most of the remaining states will be adapting to enact the same.

Need a citation to a particular remote online notarization statute or law regarding the recognition of an out-of-state notarization? Feel free to email me at JTurk@lawpay.com.

So if you live in State A, and your client gets a document notarized in State B, chances are highly likely that State A will honor State B’s notarization.

So, for remote online notarization purposes, does this mean I can present Alabama (which does not currently have a law allowing remote online notarizations) with a deed that was done remotely in Montana while the client was in Alabama? There appears to be some gray area in this question.

Given the current state of affairs, I think this is a good testing ground for these remote online notarization statutes, including those allowed under emergency circumstances like Pennsylvania, and I expect most of the remaining states will be adapting to enact the same.

Need a citation to a particular remote online notarization statute or law regarding the recognition of an out-of-state notarization? Feel free to email me at JTurk@lawpay.com.

Given the current state of affairs, I think this is a good testing ground for these remote online notarization statutes, including those allowed under emergency circumstances like Pennsylvania, and I expect most of the remaining states will be adapting to enact the same.

Need a citation to a particular remote online notarization statute or law regarding the recognition of an out-of-state notarization? Feel free to email me at JTurk@lawpay.com.
The ACBA’s annual expenses can be broken into three main budget categories: costs, fixed costs, personnel expenses and programs and projects. The ACBA’s fixed costs for 2020-2021 are projected to be $43,500, which includes such items as insurance, payments, and depreciation. The ACBA’s personnel expenses are estimated at $245,000, which includes the ACBA’s management team to reduce operating costs and explore new sources of non-dues income. Their leadership and vision for the Allegheny County Bar Association and its related entities has been outstanding. If you have any questions regarding the Allegheny County Bar Association’s finances, please feel free to call me at 412-402-6601 or email me at dblindr@acba.org.

**DEPUTY COURT ADMINISTRATOR**

Thank you for your willingness to be creative and patient. You and your staff may have had to learn new methods for conducting meetings, scheduling, editing, and proofreading. The Court will continue to address as many of these issues that litigants need to resolve before trial.

If you are submitting a General Motion (contested or uncontested), a Calendar Control Motion, a Discovery Motion, a Pretrial Joinder and/or Motion for Summary Judgment/Judgment on the Pleadings, please go to the Court’s website and read and follow all of the instructions and timelines. If there is a problem, please ask your staff members to do the same. It will save you time, help your cases move along in a timely manner, and help the Court significantly!

Thank you for your cooperation and hard work and we look forward to helping you achieve your goals.

Dianne S. Wasnwright, Esq is the Deputy Court Administrator of the Civil Division, Allegheny County Court of Common Pleas.

**ACBA ELECTION RESULTS**

The ACBA election results have been released. The current officers and councils are as follows:

- **Chair Elect:** Morgan Moody
- **Secretary:** Arli N. Oliver
- **Treasurer:** Jesse Exilus

**ACBA ELECTION RESULTS continued from page 3**

lish $2,154,312 for payroll, various insurance costs, 401(k) plan contributions and payroll taxes.

Finally, programs and projects represent the various initiatives and benefits that we offer ACBA members. These include numerous state and federal CLE seminars, virtual CLE, and the ongoing education seminars, virtual CLE, and the ongoing education seminars, virtual CLE.

Beginning in August 2019, the bar association expanded our CLE offerings. Our agreement with the Pennsylvania Bar Association allows members of the ACBA to attend CLE seminars offered by the Bar Association’s CLE Department. In addition, the ACBA was restricted from offering seminars of three hours or longer. However, the CLE Department was on track to exceed our budget projections for CLE seminars for the fiscal year. The support of our Committees, Divisions and Sections, we doubled the number of in-person CLE credits offered to members (108 CLE credits to 220 CLE hours) and we now offer more than 60 online CLE seminars. The pandemic forced the Bar Association to suspend all in-person CLE seminars, effective March 16. As a result, we experienced a reduction in CLE attendance and income for the past three months of this fiscal year.

**Reserves, Capital Expenses**

The Allegheny County Bar Association currently maintains $2.3 million in reserve assets. This represents 59 percent of the annual operating budget. Recent changes, the Board of Governors revised the Reserve Policy, which requires the association to maintain a reserve equal to between 5 and 65 percent of our annual operating budget. We have no debt, and we have set aside $58,998 in funds for capital improvements in 2020-2021. A substantial part of the capital expense budget is for the renovation for the ACBA building and Bar Foundation offices ($245,000), security and audit services ($95,000) and a renovation for the new space ($143,500) and a renovation contingency budget ($100,000).

The pandemic forced the ACBA and the ACBA’s management team to reduce operating costs and explore new sources of non-dues income. Their leadership and vision for the Allegheny County Bar Association and its related entities has been outstanding. If you have any questions regarding the Allegheny County Bar Association’s finances, please feel free to call me at 412-402-6601 or email me at dblindr@acba.org. ■
Ten thousand lawyers lost their jobs in the Great Recession that began in 2008. Many of them were women and racially and ethnically diverse lawyers. It took 10 years for these groups, which were disproportionately affected by the job cuts, to rebound to their pre-recession percentages of all practicing lawyers: white women fared better than attorneys of color, and African Americans came in last, not recouping their pre-2008 numbers until 2019.

Now, here we are again – in the midst of another recession whose exact contours won’t be known for a while. But we already know that, in the economy at large, minority workers and, in many cases, women are losing their jobs at a higher pace than other groups.

In the legal community, women and diverse attorneys may also be affected disproportionately by the potential for inequitable work distribution, fewer training opportunities and the loss of mentoring and sponsorship opportunities in the remote work experience necessary by the COVID-19 pandemic. Also, as legal organizations are forced to make other adjustments in response to the economic downturn resulting from COVID-19, diversity initiatives and mentoring and pipeline programs may suffer if they are not seen as organizational priorities.

We cannot let this backslide happen in the legal community – again. Thankfully, there is reason to believe that, at least here in Pittsburgh, it may not. The Allegheny County Bar Association (ACBA) and the Pittsburgh Legal Diversity & Inclusion Coalition (PLD) together embody the commitment of law firms, law departments and individual lawyers to not just maintain what we have, but to drive it forward.

It would be impossible to deny that Pittsburgh and its business community, including the legal community, still have enormous problems related to race and gender. Concrete evidence of these problems can be found in the report released by the city last fall titled “Pittsburgh’s Inequality Across Gender and Race,” which garnered national attention – and not in a good way. Protestors on the streets of Pittsburgh following the death of George Floyd reemphasized the need to confront these problems.

Although we do not have demographic statistics for Pittsburgh’s lawyers as a whole, the PLDIC surveyed its members and combined the results with ACBA member data and other available data. It is apparent that Pittsburgh’s legal community is less racially and ethnically diverse than the legal community nationwide, although the percentage of women at all levels in the profession here mirrors, more or less, nationwide percentages. To be sure, for women, nationwide percentages, especially at the upper levels of the profession, are not satisfactory, but at least Pittsburgh is not an outlier. When it comes to lawyers of color, however, Pittsburgh’s six or so percent is well below the nationwide percentage of 16%.

Since the Great Recession, however, Pittsburgh has seen a growing coterie of lawyers and organizations who want very much to expand opportunities here for both diverse and women lawyers.

The ACBA has made significant efforts over the last decade to create a more inclusive bar association and to encourage greater participation by women and diverse attorneys. Among those efforts are its eight affinity groups, the creation of the Institute for Gender Equality, the expansion of the Summer Clerkship Program for 2021, and the hiring of a diversity and gender equality director to guide its diversity and inclusion efforts and be a devoted resource to diverse attorneys. These have all contributed to making the association and its leadership more diverse than ever.

Realizing, however, that still more needed to be done, in June 2017 a group of lawyers – seeking to create a coalition of law firms and law departments to work collaboratively on issues relating to diversity and inclusion – hosted a “call to action” meeting. Greg Jordan, general counsel of PNC Financial Services Group, and Geovette Washington, chief legal officer of the University of Pittsburgh, issued the call. Jordan said then that he detected that Pittsburgh’s legal employers were ready to seriously tackle the challenge of becoming both more diverse and more inclusive. That phone call was the genesis of the PLDIC, which today is 33 members strong.

This growing commitment to diversity, equity and inclusion reflects, too, how much more we know today about the advantages of a more diverse legal organization. There can no longer be any question that diversity is good business. Study after study has shown the advantages of a diverse work force, from an increased likelihood of favorable outcomes in litigation to an enhanced bottom line. And clients are not likely to let up the pressure for increased diversity in their service providers any time soon.

No matter how the recession plays out, it is likely likely that this time of crisis will produce unique challenges requiring creativity and innovation to...
Health and Wellness Committee classes offer a “weekly dose of stress relief”

By Christina Daub

In these trying times, it is more important than ever to take time for self-care and reflection. The ACBA cares deeply about the well-being of all of its members so, at the start of the pandemic in March, it decided to offer a variety of virtual health and wellness classes.

You may have been one of the many members who took advantage of one of the yoga, meditation, and/or cardio sculpt sessions offered weekly via Zoom during the months of April, May and June.

These classes were led by fellow attorneys and members of the ACBA’s Health and Wellness Committee, Lisa Standish, Jacquelin Walker and Jennifer Evashavik.

Standish, who also teaches at Salt Power Yoga in her spare time, has always used yoga to create space, to become present, and to clear out all the clutter that the world throws at her.

“There is a lot going on right now that can create anxiety, distraction, negativity and depression,” she said. “My yoga practice involves a focused attention on breath, which connects our bodies and minds. When we focus on our breath, everything else can fall away. I am so grateful that I was able to share this with other ACBA members.”

Kathryn VanDeveer, who was a regular yoga attendee, found the weekly Zoom yoga classes to be the perfect mid-day reminder to stay in motion and a peaceful stress reliever in these times of uncertainty.

For those members itching to get back into the gym, cardio sculpt provided a great way to break up the day and stay physically active, according to ACBA member Amy McCrossen.

Jennifer Evashavik, who taught cardio sculpt, noted that exercise is the perfect way to combat the high levels of stress that attorneys have been facing over the past few months.

Arguably one of the most effective ways to relax and decrease stress is meditation. For those who haven’t practiced meditation before, there is often a lot of apprehension and nervousness when doing so for the first time.

Jim Ehrman was a novice in meditation, and he appreciated the opportunity to experience a guided meditation in a class setting. As an older member, he found the classes very helpful and noted that instructor Jacquelin Walker was excellent.

“Many’s meditation practice is different, but at the core of meditation, participants are asked to sit in silence with their thoughts and to develop mindfulness and clarity, which can be difficult for some. Walker’s weekly guided meditations challenged members to develop self-awareness.”

Jim Ehrman was a novice in meditation, and he appreciated the opportunity to experience a guided meditation in a class setting. As an older member, he found the classes very helpful and noted that instructor Jacquelin Walker was excellent.

“Everyone’s meditation practice is rooted in anti-racist philosophy and is the place I use to honor my humanity in a profession that often does not,” she said. “The ACBA sessions focused on cultivating self-awareness through breathing and meditation. In taking this approach, the month-long series we did together in community as lawyers provided tools to do the self-reflective work we’re called to do in this moment. Now is the time to listen for understanding, get curious, and hold uncomfortable truths.

“Focusing our attention on our breathing helps us to navigate uncomfortable conversations and receive new and challenging information. Meditation allows us to hold a mirror up to ourselves and accept our reflection. That reflection becomes a launching point for self-acceptance and transformation. This is the meaning of be the change. Lawyers especially have a duty to dismantle a legal system built on racism and inequity and dream a new one that reflects the world we all speak fondly of but has remained out of reach for many Americans. The latter is not possible without the reckoning of the former.”

“I want to offer my heartfelt thanks to Jacquelin, Lisa, and Jennifer for generous volunteering their time to lead these classes for the ACBA,” said ACBA Executive Director David Blaner.

“I hope that some of you were able to attend and found benefit in the offerings. If you missed out, the ACBA hopes to provide more of these types of health and wellness classes in the future.”

The Allegheny County Bar Foundation Lawyers’ Fund provides confidential financial assistance to attorneys and/or their family members in need. The Lawyers’ Fund can help attorneys recovering from personal tragedies or facing challenges such as house fires, excessive medical bills, addiction treatments and more.

To make a confidential Lawyers’ Fund request, contact ACBA Executive Director David A. Blaner at dblaner@acba.org or 412-402-6601.

For more information visit www.acbaf.org/Lawyers-Fund.
Gov. Wolf’s executive orders on evictions during COVID-19 spur challenge under PA Supreme Court’s Extraordinary King’s Bench Jurisdiction

By Bradley S. Dornish

I have been a civil litigator since 1984, with a practice focused on real estate related litigation since the early 1990s. In all that time, I have only been involved in three matters invoking the Extraordinary King’s Bench Jurisdiction of the PA Supreme Court (42 Pa. C.S.A. Section 502). The latest of those actions is one which we filed by an emergency application directly to the PA Supreme Court on May 12, 2020. Private Properties, et al., v. Tom Wolf, Governor, and Josh Shapiro, Attorney General 90 MM 2020.

The genesis of this action was, of course, the Commonwealth’s response to the present COVID-19 pandemic. By now, we are all too familiar with Gov. Wolf’s Emergency Disaster Declaration of March 6, 2020, his Executive Order of March 19, closing non-essential businesses, and his April 1 Stay-at-Home Order. During this unprecedented shutdown of most businesses, we in the legal profession have adapted the best we could to work from our homes; to use new (for us) digital and virtual means of conducting arguments and hearings; and to balance our clients’ needs and legal rights against the restrictions of a public health emergency.

In my practice, I represent many commercial and residential landlords, including many residential Landlord Tenant Actions to evict tenants and collect unpaid rent and compensation for damage to rented property. In late March, we saw the complete shutdown of pending evictions and lockouts, and struggled to provide advice and solutions to clients who had tenants damaging properties, disregarding prohibitions in leases on home businesses (for example, a common basement commandeered as a welding shop), as well as pet restrictions and occupancy limitations. By mid-April, we saw many landlords who were not receiving substantial portions of their rental income from tenants who had been laid off, businesses which had been shuttered, and college students who had moved back to parents’ homes as their schools shifted to virtual classes.

On April 28, the PA Supreme Court entered its per curiam order (No. 531 and 532, Judicial Administration Docket), charting a path for PA courts to reopen and specifically ending its previously ordered March 16 stay on dispossession of property, evictions, ejectments and other displacements from a residence. The April 28 order provided in pertinent part that, as of May 11, “the statewide suspension of procedures related to dispossession of property shall cease” (Id, Section IX, p. 12). In its very order, the PA Supreme Court cited its constitutional conferred general supervisory authority over all courts and magisterial district judges pursuant to Article V, Section 10(a) of the PA Constitution.

On April 29 and 30, we began a review of all pending eviction and ejectment actions in our office and reached out to clients on the most serious of those actions to prepare to resume our efforts on May 11. However, at about noon on May 7, lobbyists for the Pennsylvania Residential Owners’ Association (PROA) alerted us to an urgent press conference called by Gov. Wolf and Attorney General Shapiro that day. Along with other PROA board members, I watched the press conference and heard the governor and attorney general explain the governor’s executive order of that date “suspending evictions until July 10.”

I immediately expressed to my fellow board members my concerns about the Separation of Powers; the governor’s and attorney general’s misconception that landlords with substantial lost rent but little or no payroll could receive Federal Payroll Protection Plan loans to cover their lost rent – as well as their apparent lack of understanding that most commercial lease actions are by confession of judgment, not eviction, and most residential leases in PA include clauses waiving the statutory notice to vacate.

I read the governor’s May 7 executive order after the news conference that day, trying to understand the constitutional basis for his action. I read the laws cited in the preambles to that order, and the governor’s acknowledgement that under the Supreme Court’s order of April 28, the suspension of eviction and ejectment actions was due to end on May 11. However, the governor’s May 7 order did not mention any constitutional rationale for its contradiction of the April 28 PA Supreme Court order.

Continued on page 10
tackle and overcome. A homogenous team may be fine when you know exactly what to do, but when you need new ideas, diverse teams are best. Diverse teams are more creative and produce better results, studies prove. Reducing the diversity of our legal community now will hobble our efforts to come out the other end of this time of crisis stronger than ever. It is not enough, however, for us to recite yet again all the reasons it is in our best interest to solve the problem of an inadequately diverse and inclusive Pittsburgh legal community. Words were never enough, even when combined with the many excellent programs and opportunities offered by the ACBA and the PDLCJ. Ultimately, the question we must each confront is what are we, as individuals, law firms and law departments, prepared to do about it? The time is now.

Susan A. Yohe is executive director of the Pittsburgh Legal Diversity & Inclusion Coalition. Alysia Keating is director of diversity and gender equality at the Coalition. Alysia Keating is director of diversity and gender equality at the Coalition.

Articles wanted for the Lawyers Journal
If you have an idea for a substantive law article or would be interested in authoring one, please email Jane-Ellen Robinet at jrobinet@acba.org.

HARRY M. PARAS
428 Boulevard of the Allies
Suite 300
Pittsburgh, PA 15219
Phone: 412-391-8100
Fax: 412-391-9972
Email: hmp@harryparas.com
Website: www.harryparas.com

Mediation and Arbitration/ Civil Litigation
- Resolved over 2,000 cases through Mediation and Arbitration (UM/UIU)
- Practicing Civil Trial Lawyer with over 39 years experience representing plaintiffs and defendants (auto, premises, products liability, medical malpractice, bad faith, workers comp)
- Knowledge of insurance coverage disputes and primary/ excess insurance coverages
- Member - Academy of Trial Lawyers of Allegheny County
- Approved Mediator - U.S. District Court, Western District of PA
- Invited Member - The National Academy of Distinguished Neutrals (NADN)

Bradley S. Dornish, Esq. is president and owner of Dornish Law Offices, PC.

Friends of Danny DeVito v. Wolf
WL 1847100 (Pa April 13, 2020).

However, a reading of PA Supreme Court’s Friends of DeVito opinion shows that the court’s analysis in that case – that the governor’s pandemic executive orders did not violate the separation of powers between coequal branches of government (in DeVito legislative and executive branches) was based on the explicit passage of the Emergency Code, whereby the legislature specifically ceded specific short-term authority to the governor. The PA Supreme Court did not similarly specifically cede its authority over the courts to the governor.

Action Housing, Neighborhood Legal Services, The Community Justice Project, Senior Law Center, Pittsburgh United, Pittsburgh Union of Regional Workers, Tenant Union Representative Network, and the Cities of Pittsburgh and Philadelphia filed Amici Curiae briefs in opposition to our petition. While those briefs cited voluminous amounts of statistics on the pandemic and its effects on tenants, those filings did not cite any constitutional provisions, statutory or case law in support of the governor’s order.

Following the May 21 filing of the governor’s and attorney general’s answer, the governor amended his executive order that same day, clarifying that his original May 7 order did not prevent the filing or continuing proceedings on evictions for alleged non-monetary defaults of Pennsylvania residential leases.

As requested by the court, we filed a June 1 supplementary brief on issues of separation of powers and deprivation of substantive due process. The governor and attorney general filed their brief on those issues on June 4, after which the court marked the case as submitted on briefs. In the governor’s and attorney general’s June 4 brief, they further clarify that the executive orders of May 7 and 21 do “not impact evictions where the tenant has waived his or her right to receive a notice (to vacate).” (Respondent’s Br p.22)

Through the process of this action, the governor’s amended order and brief, it is clear that evictions for non-economic reasons as well as economic evictions on the vast majority of Pennsylvania residential leases that contain waivers of notice can now proceed. We await a decision from the PA Supreme Court on the constitutional separation of powers issue and remaining substantive due process issues as this article goes to print.

Pre-order your
2020-21 Allegheny County Bar Association
Legal Directory
Visit ACBA.org/ProductStore for more.

It’s That Time of Year.
Renew your membership by Aug. 31 and continue enjoying:
• Networking, networking and more networking
• Access to Committees, Divisions and Sections
• Select free CLEs for members only
• Member discounts on all other ACBA CLEs
• Complimentary subscription to the Lawyers Journal
• Career counseling and job placement assistance
• Pro bono opportunities
• Opportunities to promote diversity in the profession
• Discounts on Lawyers Professional Liability insurance
• Discounts on IT Services and Solutions through Plummer Slade
• Discounts on eDiscovery services through bit-x-bit
• Discounts on legal credit card processing through LawPay
• The return of the Bench Bar Conference next summer
Plus discounts on everything from office supplies to rental cars and everything in between – plus much more.

Renew today at ACBA.org/renew-membership.
Or contact Barbara Brumbaugh at 412-402-6612 or bbrumbaugh@acba.org to renew.
Here’s the Evidence, Now What Do We Do With It? A Look at Physical Evidence at a Crime Scene
Wednesday, July 22 | Noon
1 Ethics Distance Learning credit

Force Majeure and Defenses to Contract Performance in the COVID Landscape
Friday, July 24 | 1 p.m.
1 Substantive Distance Learning credit

COVID-19 Tax Update
Tuesday, July 28 | Noon
1 Substantive Distance Learning credit

Financial Planning Strategies for Attorneys Nearing Retirement
1 Substantive credit

From Old School Bigotry to Implicit Bias – The Science of Racial Disparity
1.5 Substantive credits

How ‘Our Family Wizard’ Can Benefit the Parties/Court in Custody Litigation
1 Substantive credit

Impairment in the Legal Profession and What YOU Can Do About It
1 Ethics credit

In the Squared Circle: 30 Years of Representing WWE
2 Substantive credits

Jury Selection and Management: An Engineered Group Dynamics Approach
2 Substantive credits

Landlord-Tenant Mediation and Pro-Bono Training
4 Substantive credits

Law Firm Metrics for Strategic Decision-Making Success
1 Substantive credit

Leveraging Change Management Principles to Optimize Legal Technology
1 Substantive credit

Life and Disability Insurance – Protecting Lawyers’ Families from Debt
1 Ethics credit

Making Government Benefits Work for You: Understanding Soc. Sec. & Medicare
1 Substantive credit

Mediation in the Time of COVID-19
1 Substantive credit

Meet You in (Corporate) Hell!
1 Substantive credit

Navigating Remote Depositions
1 Substantive credit

New Essential Changes to Pa. Guardianship Practice
1 Substantive credit

Oil and Gas Insurance Basics
1 Substantive credit

Oil and Gas Well Plugging Liability in Pa.
1 Substantive credit

Optimizing COVID-19 Readiness and Organizational Response
1 Substantive credit

Planning an Exit Strategy for Lawyers of All Ages
3 Ethics credits

Police Misconduct Update: SCOTUS, Third Circuit and Western District
2 Substantive credits

Presenting with Impact: How to Hit Your Points While Keeping Them Awake
1 Substantive credit

Remote Work and Mobile Devices: Is Your Data Safe?
1 Substantive credit

Selecting Construction Arbitrators – Issues and Considerations
1 Substantive credit

Shifting Landscapes: Adapting Your Firm to Emerging Liability Threats
1 Ethics credit

Supreme Court Update: Cases of Interest to Labor and Employment Practitioners
1 Substantive credit

Technology in Your Practice
1 Substantive credit

The ABCs of CBAs in Pro Sports
1 Substantive credit

The Continued Evolution of Title IX: Highlights of the New Regulations
1 Substantive credit

The Do’s and Don’ts of Family Law Master’s Practice
2 Substantive credits

The Impaired Lawyer – A Call for Action
1 Ethics credit

The Life of a Labor Contract: Negotiating the Contract
2 Substantive credits

The Numbers You Need to Know to Double Your Revenue
1 Substantive credit

The Past Present and Future of Amateurism in Division I College Athletics
1 Substantive credit

The Road Ahead: Our Autonomous Future
1.5 Substantive credits

Tips and Tools to Tackle Vicarious Trauma
1.5 Ethics credits

Transcending Your Practice: The Mind, the Money and the Rules
1 Ethics credit

Understanding Allegheny County Environmental Law with the ACHD
1 Substantive credit

Wake up With the Judges Program – “Business of the Court”
1 Substantive credit

What to do When You’re Not in the Room Where It Happened
1 Ethics credit

What You Need to Know About Allegheny Co. Property Tax Assessment Appeals
1 Substantive credit

Your Honor, You Erred Because…Navigating Rule 1925(b)
1 Substantive credit
Trained law students are available to help with PFAs

Recognizing that the potential high volume of cases could coincide with the availability of law students whose summer employment and internship plans may have been cancelled or changed, the Pro Bono Center teamed up with NLS to provide a volunteer opportunity. Law students will help prepare attorneys who are representing plaintiffs by analyzing the family and criminal court docket histories, if any, for the parties in the PFA. These histories can help provide insight into the grounds for and merits of the PFA action. The law students will provide this information to the attorneys to help them negotiate a resolution to the case or prepare for a hearing. All the work can be done remotely, which makes it an ideal project while some COVID-19 closures and precautions remain in effect.

If you are an attorney who is assigned to handle a PFA case and would like support from a law student, please contact Barbara Griffin at bgriffin@acba.org.

Wonder if your decisions, legal advice or other professional actions are ethical? Members can get consultation on their legal actions and potential actions through the ACBA Professional Ethics Hotline.

See ACBA.org/OfficerAssignments for details.

By Barbara Griffin

The Allegheny County Bar Foundation’s Pro Bono Center and Neighborhood Legal Services trained 35 law students on June 11 to assist attorneys in preparing for final protection from abuse (“PFA”) hearings. The goals of the project are to make it easier for volunteer attorneys to prepare for hearings while providing law students with a learning opportunity.

When the Allegheny County Court of Common Pleas closed the Family Court for most non-emergency proceedings in March, hundreds of final PFA hearings were put on hold. Now, the court has rescheduled the hearings, and many of the plaintiffs in those cases will receive free representation from Neighborhood Legal Services, the Women’s Center & Shelter of Greater Pittsburgh, and volunteer attorneys. Because of the backlog, a higher-than-normal number of cases will be scheduled each day of the week.